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The first administrative guidance to generative AI platform and Alerts regarding the use of generative AI services issued by PPC

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The Japanese Personal Information Protection Commission (“PPC”) has issued administrative guidance regarding the protection of personal information by generative AI platforms. On June 1, 2023, the guidance was issued to OpenAI, L.L.C. and openAI OpCo, LLC pursuant to Article 147 of the Personal Information Protection Act (Law No. 57 of 2003). The warning addresses two primary concerns.

First, the PPC requires that Open AI take necessary steps to ensure that it does not collect sensitive personal information for machine learning purposes without the consent of the affected individual. If such information is collected, Open AI must delete it as soon as possible, and at least before processing it into datasets for training purposes. Additionally, the guidance requires that the purpose of using personal information must be within purpose notified to the affected individual or made public.

The guidance is based on the concerns that the PPC has identified at this time, and the PPC reserves the possibility of taking additional measures in the future. In addition to specific case guidance, general precautions on generative AI, “Alerts regarding the use of generative AI services” also was issued.

The Alerts discuss the use of AI services that utilize generative AI, which is AI capable of generating content and images in response to prompts and instructions. The Alerts refer to the “G7 Hiroshima Leaders’ Communiqué,” which emphasizes the need for international discussions on inclusive AI governance and interoperability to achieve a common vision of reliable AI aligned with democratic values, and highlights the importance of proper handling of personal information and privacy protection, given the increasing prominence of generative AI.

The Japanese government recognizes the widespread use of generative AI services and aims to strike a balance between ensuring the protection of individual rights and promoting public interests through innovation, productivity improvement, enhanced education, and addressing global issues like climate change.

To address these concerns, the Alerts have been provided to personal information handling businesses operators, government agencies, and general users. Personal



information handling businesses operators are advised to ensure that the input of prompts containing personal information into generative AI services is limited to the necessary scope for achieving the purpose notified to the affected individual or made public. They are also cautioned against using personal data for purposes other than generating responses such as using information to train generative AI without obtaining prior consent.

Government agencies are advised to confirm that the use of personal information in generative AI services is limited to not only the specified purpose but also the necessary minimum for the purpose. They are also cautioned against using personal data for purposes other than generating responses without obtaining prior consent.

For general users, it is important to be aware that personal information inputted into generative AI services may be used in machine learning processes and that there is a risk of generating inaccurate or misleading content tied to other information. Users are also advised that they should consider risks of including inaccurate personal information and review the terms of use and privacy policies of generative AI service providers when users input and use such services.

Overall, the Alerts emphasize the need for responsible and ethical practices in utilizing generative AI services, considering the potential risks and benefits associated with personal information handling and privacy protection.

This newsletter updates the latest developments regarding privacy laws. In Japan, as in other countries, there are a variety of legal issues related to the use of generative AI, such as copyright treatment and liability for AI use, etc. It is necessary to consider these other legal issues as well.

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